



RZ Case #: RZ09-16

Gen# 04100135
CV Case #:

LS# 09-0906
CU Case #:

ZONING APPLICATION

TYPE OF REQUEST:

- ☒ Rezoning *Removal of conditions*
☐ Concurrent Variance
☒ Conditional Use
☐ Text Amendment
☐ Other (Explain)

Present Zoning

C3

Requested Zoning

C3 with food service allowed
for Alpine Bakery & Pizzeria

Proposed Use

Current use as a Shopping
Center

Total Acreage

1.11

PROJECT

Orchard Village

Name of Project

295 Rucker Road, Alpharetta, GA 30004

Property Address/Location
1282

2nd

2nd

Suite/Apt. #

City

State

Zip Code

22-3870-1282-094-5

Land Lot

District

Section

Property ID

APPLICANT/OWNER

Jay Baker

Applicant

MPARC, LLC

Company

1717 Penn Avenue, Suite 5015, Pittsburgh, PA 15221

Mailing Address

412-242-5390

Suite/Apt. #

412-242-5391

City

State

Zip Code

Phone

Cell Phone

Fax Phone

E-mail

REPRESENTATIVE

Donald L. Goodman, Equitable Management Corporation

Contact Name and Company (Owner's Agent or Attorney)

736 Johnson Ferry Road, Suite C-220, Marietta, GA 30068

Contact Mailing Address

770-579-6777

404-245-1392

Suite/Apt. #

770-579-6201

City

State

Zip Code

dgoodman@emcatalanta.com

Phone

Cell Phone

Fax Phone

E-mail

I hereby certify that all information provided herein is true and correct

Date: 10 / 6 / 09

Applicant Signature: Property Owner or Owner's Representative

OFFICE USE

Fee: \$ _____ ☐ Cash ☐ Check # _____ ☐ CC - Visa/ MC

Date: _____ / _____ / _____

☐ Approved ☐ Denied By: _____

Date: _____ / _____ / _____





Analysis Requirements

REZONING APPLICATIONS: Please complete the Analysis Requirements questionnaire. Applicants are required to respond to criteria 1 through 6 pursuant to O.C.G.A. 36-67-3. Further, please complete criteria 7 through 23, as noted below.

CONCURRENT VARIANCE APPLICATIONS: Please complete the Analysis Requirements questionnaire. Applicants are required to respond to criteria 1 through 23. Complete also the Concurrent Variance Justification, questions 1 - 7 at the end of this section.

CONDITIONAL USE APPLICATIONS: Please complete the Analysis Requirements questionnaire. Applicants are required to respond to criteria 1 through 8; also 13, and 18 through 22. Criteria 9 through 12, and 14 through 17, and 23 are NOT required to be completed for a Conditional Use Application.

1. Whether the proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property. The property is currently being used as a shopping center. The purpose of this application is to request that Alpine Bakery and Pizzeria, a current tenant, be allowed to expand for the sole use of adding a dining area for on-premises consumption. Since this is an existing tenant this added use will have no effect on adjacent or nearby properties.
2. Whether the proposal will adversely affect the existing use or usability of adjacent or nearby property. As previously stated, the requested use is for a current tenant, the use of the tenant is not changing, there is no structural or major change to the structure on the property and therefore there will be no adverse affect to the use or usability of adjacent or nearby properties.
3. Whether the property to be affected by the proposal has a reasonable economic use as currently zoned. The current use will be severely impacted if Alpine Bakery is not allowed to sell for on-premise consumption. This tenant will vacate the property which in addition to a loss for the property owner will also produce a tax revenue loss to the City of Roswell and further a loss for the services Alpine provides to the community.
4. Whether the proposal will result in a use which would or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. No, the clientele will be the same, no excessive burden will be created on the streets, transportation, utilities or schools, since the only addition to the property would be seating.





5. Whether the proposal is in conformity with the policy intent of the Comprehensive Plan including land use element. **There is no change in the land use element and therefore in conformity with the Comprehensive Plan.**

6. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposal.

Alpine Bakery and Pizzeria is an existing tenant currently selling baked good and pizza to its patrons, the purpose of this application is to allow those patrons who are already at the property to consume the baked goods and/or pizza on the premises.

An applicant for an amendment to the official zoning map may decline to provide any information related to criteria seven (7) through twenty-three (23) if he or she completes, signs, and notarizes the following statement:

"I do not regard the information required by the City, or any portion thereof as indicated, as necessary or relevant to the City Council in their consideration of my application for rezoning. I stipulate that such information shall not be relevant to the City Council in their deliberations or to any court in its review of the decision on my application for rezoning."

MPARC, LLC, by: MP Realty Management, Inc.
Owner of Property (Signature) By: Jay Baker, V.P.

Date: 10 / 6 / 09

The above named individual personally appeared before me, and on oath states that he/she is the
Vice President for the foregoing,, and that all above statements are true to the best of his/her knowledge.

Deane M. Nordubay
Notary Public (Signature)

Date: 10 / 6 / 09

My Commission Expires:

Date: 10 / 18 / 2012

7. An explanation of the existing uses and zoning of subject property.

8. An explanation of the existing uses and zoning of nearby property.





9. An explanation of the existing value of the property under the existing zoning and/or overlay district classification.
10. Whether the property can be used in accordance with the existing regulations.
11. The extent to which the property value of the subject property is diminished by the existing zoning district and/or overlay district classification.
12. The value of the property under the proposed zoning district and/or overlay district classification.
13. The suitability of the subject property under the existing zoning district and/or district classification for the proposed use.
14. The suitability of the subject property under the proposed zoning district and/or overlay district classification.





15. The length of time the property has been vacant or unused as currently zoned.
16. A description of all efforts taken by the property owner(s) to use the property or sell the property under the existing zoning district and/or overlay district.
17. The possible creation of an isolated zoning district unrelated to adjacent and nearby districts.
18. Possible effects of a change in zoning or overlay district map, or change in use, on the character of a zoning district.
19. Whether a proposed zoning map amendment or conditional use approval will be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations.
20. The possible impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quality.





21. The relation that the proposed map amendment or conditional use bears to the purpose of the overall zoning scheme, with due consideration given as to whether or not the proposed change will help to carry out the purposes of these zoning regulations.
22. The consideration of the preservation of the integrity of residential neighborhoods shall be considered to carry great weight. In those instances in which property fronts on a major thoroughfare and also adjoins an established residential neighborhood, the factor of preservation of the residential area shall be considered to carry great weight.
23. The amount of undeveloped land in the general area affected which has the same zoning or overlay district classification as the map change requested.

Concurrent Variance Justification If Required

An applicant requesting consideration of a Concurrent Variance to any provision of the Zoning Ordinance shall provide written justification that one or more of the following condition(s) exist:

1. There are extraordinary and exceptional conditions or practical difficulties pertaining to the particular piece of property in question because of its size, shape, topography that are not applicable to other lands or structures in the same district.
2. Any information whereby a literal interpretation of the provisions of this ordinance would effectively deprive the applicant of rights commonly enjoyed by other properties of the district in which the applicant's property is located.
3. Any information supporting that granting the variance requested will not confer upon the property of the applicant any special privileges that are denied to other properties of the district in which the applicant's property is located.
4. Any information that the requested variance will be in harmony with the purpose of the intent of this ordinance and will not be injurious to the neighborhood or to the general welfare.
5. Any information that special circumstances are not the result of the actions of the applicant.
6. Any information that the variance request is the minimum variance that will make possible the proposed use of the land, building, or structure in the use district proposed.
7. Any information that the variance shall not permit a use of land, buildings, or structures, which is not permitted by right in the zoning district or overlay district involved.





Application Signature Page

Please complete this **Applicant Signature Page** for ALL applications. **READ CAREFULLY BEFORE SIGNING.**

- I understand that failure to supply all required information (per the relevant Applicant Checklists and requirements of the *Roswell Zoning Ordinance*) will result in REJECTION OF THE APPLICATION.
- I understand that preliminary approval of my design plan does not authorize final approval of my zoning or signage request. I agree to arrange sign permitting separately, after approval is obtained.
- I understand that representation associated with this application on behalf of the property owner, project coordinator, potential property owner, agent or such other representative shall be binding.
- I have read the provisions of the Georgia Code Section 36-67A-3 as required regarding Campaign Disclosures. My signed Campaign Disclosure Statement is included with this Application (required for rezoning only).
- I understand that due to a sewer allocation system controlled by Fulton County, sewerage capacity may not be available. I agree to arrange sewer service separately from this application. The method of sewage disposal that is planned for this property is:

Check one:

☒ Sanitary Sewer

☐ Septic Tank

I respectfully petition that this property be considered as described in this application

From Use District _____

To Use District: _____

Wherefore, applicant prays that the procedures incident to the presentation of this petition be taken, and the property be considered accordingly. Additionally, applicant further acknowledges and fully understands all above statements made by the City of Roswell.

APPLICANT SIGNATURE (REQUIRED FOR ALL APPLICATIONS)

I hereby certify that all information provided herein is true and correct

MPARC, LLC, by: MP Realty Management, Inc
Owner of Property (Signature) By: [Signature]

Street Address, City, State, Zip

Jay C. Baker, V.P.

1717 Penn Avenue, Suite 5009
Pittsburgh, PA 15221

Date: 10 / 06 / 09
412.242.5393 x151
Phone

NOTARY

Personally appeared before me the above Owner named Jay C. Baker who on oath says that he/she is the Applicant for the foregoing, and that all the above statements are true to the best of his/her knowledge.

Deane M. Nordubay
Notary Public (Signature)

Date: 10 / 7 / 09

Date: 10 / 18 / 2012
Commission Expires

ATTORNEY / AGENT (IF APPLICABLE)

Attorney / Agent (Signature)

736 Johnson Ferry Rd. Suite C-220 Marietta, GA
Street Address, City, State, Zip 30068

Date: 10 / 6 / 09
770-579-6777
Phone



Campaign Disclosure Ordinance

Please read the law and complete the Campaign Disclosure Statement on the following page if you are requesting a Rezoning, Concurrent Variance, or Conditional Use.

GA Citation/Title

GA Code 36-67A-3, Disclosure of campaign contributions

*38069 Code, 36-67A-3

CODE OF GEORGIA TITLE 36. LOCAL GOVERNMENT PROVISIONS APPLICABLE TO COUNTIES AND MUNICIPAL CORPORATIONS CHAPTER 67A. CONFLICT OF INTEREST IN ZONING ACTIONS (Current through 2000 General Assembly)

36-67A-3 Disclosure of campaign contributions.

- a) When any applicant for rezoning action has made, within two years immediately preceding the filing of that applicant's application for the rezoning action, campaign contributions aggregating \$250.00 or more to a local government official who will consider the application, it shall be the duty of the applicant to file a disclosure report with the governing authority of the respective local government showing:
 - 1) The name and official position of the local government official to whom the campaign contribution was made; and
 - 2) The dollar amount and description of each campaign contribution made by the applicant to the local government official during the two years immediately preceding the filing of the application for the rezoning action and the date of each such contribution.
- b) The disclosures required by subsection (a) of this Code section shall be filed within ten days after the application for the rezoning action is first filed.
- c) When any opponent of a rezoning action has made, within two years immediately preceding the filing of the rezoning action being opposed, campaign contributions aggregating \$250.00 or more to a local government official of the local government which will consider the application, it shall be the duty of the opponent to file a disclosure with the governing authority respective local government showing:
 - 1) The name and official position of the local government official to whom the campaign contribution was made; and
 - 2) The dollar amount and description of each campaign contribution made by the opponent to the local government official during the two years immediately preceding the filing of the application for the rezoning action and the date of each such contribution.
- d) The disclosure required by subsection (c) of this Code section shall be filed at least five calendar days prior to the first hearing by the local government of any of its agencies on the rezoning application.

(Code 1981, 36-67A-3, enacted by Ga. L. 1986, p. 1269, 1; Ga. L. 1991, p. 1365, 1; Ga. L. 1993, p. 91, 36.)

Official Code of Georgia Annotated Copyright 1982 - 2000 State of Georgia.





APPLICANT CAMPAIGN DISCLOSURE STATEMENT

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the City of Roswell City Council or a member of the City of Roswell Planning Commission?

☐ YES

☒ NO

Date: 10 / 6 / 09

Applicant/Owner of Property (Signature)

736 Johnson Ferry Rd. Ste C-220
Street Address, City, State, Zip Marietta Ga 30068

If the answer is yes, please complete the following section:

Date	Government Official	Official Position	Description	Amount





Planning & Zoning Director Acceptance Stamp

- ☒ Rezoning
☐ Concurrent Variance
☒ Conditional Use

RECEIVED BY THE CITY OF ROSWELL
ZONING OFFICE _____
Date _____
APPROVED FOR INITIATION OF A ZONING
AMENDMENT TO THE ROWELL ZONING
ORDINANCE AND ZONING MAP BY THE
ZONING DIRECTOR.

Zoning Director
DATE: _____
TIME: _____
THIS APPLICATION SHALL BE CONSIDERED
AND MAY BE REFERRED TO AS REZONING
PETITION NUMBER _____

RECEIVED BY THE CITY OF ROSWELL
ZONING OFFICE Oct. 8. 2009
Date

APPROVED FOR INITIATION OF A ZONING
AMENDMENT TO THE ROWELL ZONING
ORDINANCE AND ZONING MAP BY THE
ZONING DIRECTOR.

Bradford D. Townsend
Zoning Director
TIME: 2:47 pm DATE: 10-14-2009

THIS APPLICATION SHALL BE CONSIDERED
AND MAY BE REFERRED TO AS REZONING
PETITION NUMBER _____

R209-16.

